



CENTRE OF EXPERTISE FOR GOOD GOVERNANCE

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**Policy Advice
on the Roadmap
for Local Self-Government Recovery
from the Consequences of the War**

Executive summary

The draft Roadmap for Recovery produced by the National Council for Recovery of Ukraine from the Consequence of the War includes a chapter on Public Administration reform and a sub-chapter on Local Self-Government; this latter is the subject of this assessment. As it stands it is a well-structured section, outlining four challenges to the system of local governance aggravated by the large-scale aggression started by the Russian Federation in February 2022.

Policy goals and remedies to problems are advanced, sequenced in time over the short, medium and long term, altogether spanning an interval of ten years.

The most serious problems at local level are the demographic losses in municipalities affected by military operations and/or occupation (victims, internally displaced persons (IDPs)) and the destruction of physical infrastructure, property and businesses. The economic decline had a severe impact on local budgets, but unevenly across the territory, with some areas more affected than others, which magnifies the regional disparities.

The draft Roadmap correctly identifies and addresses some structural problems in the local self-government setup, part of which are the result of the incomplete local self-government and administrative-territorial reforms before the large-scale aggression. It provides for the finalisation of these reforms in the medium term, by clarifying the assignment of powers and resources vertically (between the tiers of local self-government) and horizontally (between elected self-government and territorial state administration).

This report suggests a number of additional urgent measures necessary to alleviate the problems created by the change in the population and economic structure of local communities. Some can be implemented by fine-tuning the existing legislation dealing with compensations for IDPs and companies from affected areas. The local tax base which still exists must be protected with priority in the process.

Second, the temporary measures of re-centralisation, understandable while the war is still going on, must not become a feature of the local governance system. The “depoliticisation” of activities at local level should be understood just in the sense of addressing major inefficiencies, but not as a permanent prevalence of executives over deliberative bodies.

Stronger forms of inter-municipal co-operation, especially around large cities, should be encouraged and stimulated financially. The principles of smart and “green” municipal (urban) planning should be the basis of the rebuilding effort, in particular the one assisted by the European Union.

Local self-government service reform, aimed at stabilising the public functions and make it more attractive for people with high skills, must be carried out under a national framework of strategies and regulations (in compliance with the transformation of local self-government and public services into a fully-fledge professional public service), covering all relevant aspects, from recruitment and payment to various rights and obligations, including ethical rules.

A careful assessment is necessary of the rules and practices governing the local elections, by consulting all the relevant stakeholders concerned, including the Central Election Commission, before new elections are organised after the martial law is terminated and conditions allow for it.

Considering the crosslinks of the sectoral chapters of the Roadmap and the Local Self-Government section, engagement of the advisory expert team on local self-government in the final editing of the draft Roadmap will be beneficial for the coherence of the proposed actions.

Introduction

1. On 21 April 2022, the President of Ukraine by [Decree № 266/2022](#) established the National Council for Recovery of Ukraine from the Consequence of the War, with the aim of developing a comprehensive Roadmap for the recovery during the wartime and once the conflict is over. This Roadmap covers a large number of areas of social and economic life and contains a specific subchapter dedicated to local self-government development, meant to achieve a list of four reform objectives.
2. The Centre of Expertise for Good Governance of the Council of Europe was invited by the Specialised Parliamentary Committee on State Building, Local Governance, Regional and Urban Development to provide an opinion on the specific subchapter mentioned above in view of compliance with the European Charter of Local Self-Government and with Council of Europe standards and good practice.
3. The present Policy Advice was prepared based on contributions from experts of the Centre of Expertise for Good Governance (national expert Markiyana DACYSHYN and international expert Sorin IONITA), within the framework of the Programme “Enhancing decentralisation and public administration reform in Ukraine” with the contribution of the project “Supporting the transparency, inclusiveness and integrity of electoral process in Ukraine – Phase III”. The document also takes into account findings of consultations with the national stakeholders and expert community carried out in June 2022 (list attached).

Context

4. The ongoing large-scale military aggression of the Russian Federation against Ukraine, started in February 2022, affected among other things democratic governance in Ukraine at all levels, including the well-advanced process of decentralisation reform. This reform began in 2014 and yielded significant results, especially in territorial amalgamation and fiscal decentralisation: at basic tier, the number of local self-government units decreased by 7,5 times (from over 11,000 to 1470) and they became responsible for over 31% of all public expenditures (12.5% of GDP). According to the data of the Organisation for Economic Co-operation and Development (OECD), it places Ukraine’s level of the decentralisation above the OECD 36 average. The drive towards amalgamation pursued gradually and largely on a voluntary basis, went hand in hand with the transfer of additional powers and resources to the local level, both from the centre and the old intermediary tiers (districts/*rayons*).
5. At the beginning of 2022 there were still shortcomings related to local self-government and public administration in general waiting to be clarified, among them the clear separation in terms of powers, responsibilities and resources between the elected local self-governments and the territorial state administration (deconcentrated bodies of the central government); the administrative supervisory function meant to ensure legality of local acts; public service in local self-government; status and liability of local elected representatives (the list is not exhaustive). The

supervisory function of the state is especially important: it should meet the fundamental principles enshrined by the Charter: legality, functional autonomy and proportionality¹. This is a system with a contractual logic in compliance with the decentralisation mainstream vision; meanwhile, it is very different from the old one of command-and-control, which used to produce a high degree of interference in local affairs.

6. The war made the whole process of decentralisation more complex, since the current situation of local communities diverges a lot depending on how far away they are from the frontline and how much they were affected by military operations. On the other hand, there is broad consensus among Ukrainian practitioners that the reforms implemented in the previous years, by giving local decision-makers more responsibilities and resources, contributed to the increased resilience of local communities under difficult circumstances today, especially in their new functions of providing supplies to the Ukrainian Army (Territorial defence forces) and accommodation to IDPs, but also for continuing to provide essential services to residents in municipalities severely affected by the conflict. This was noted and praised by many interviewed observers, who stressed the fact that the vast majority of local authorities remained operational, including those in the frontline and even under occupation. Therefore, the Ukrainian authorities reiterated their determination to continue the reforms with an update of the administrative-territorial set-up (at local and sub-regional levels), and at the same time address the issues mentioned above which were still pending at the beginning of 2022.

7. The challenges to this reform process created by the Russian large-scale aggression are serious: 13 million persons were displaced², out of them almost 8 million left Ukraine³, while the rest migrated internally, mainly towards safer areas in the West of the country. According to estimates, more than 1500 companies applied for the Government relocation programme, out of which 510 have already relocated their production to the West from the war-affected regions⁴; the GDP will decline by 45% this year⁵ while the proceeds from the main local own sources (land fee, land rent, etc.) are down by 38%. In consequence, the local budgets have changed their structure becoming more reliant on central budget transfers. In some places the local councils are difficult to convene, because members may not be present in community anymore, while the relationship between the elected authorities and the military administration, being in general cooperative, are a new reality that must be closely monitored. The electoral system at the local level affects the political landscape: in some cases the composition of councils does not represent the choice of the voters' majority favouring the leading parties' lists, as reported by the experts interviewed.

8. The most difficult aspect over the past months remains the diverging trend in the situation of municipalities, with those in the East, South and North-East of the country suffering most as a result of military operations on their territory and/or occupation by Russian forces. The fleeing of companies and working age people have left communities even older on average, more dependent

¹ [CoE Opinion CEGG/LEX\(2020\)5](#)

² <https://www.unhcr.org/ua/en/internally-displaced-persons>

³ <https://data.unhcr.org/en/situations/ukraine>

⁴ <https://www.me.gov.ua/News/Detail?lang=uk-UA&id=d105eb30-9405-476c-90d8-822e8eec8199&title=Ponad500-UkrainskikhPidprimstvPeremischenoVRamkakhProgramiRelokatsii>

⁵ World Bank

on social support and with a dwindling base of own revenues which may go as low as -90% in terms of firms still operating and -50% in local revenues compared to the pre-war level.

National authorities' response

9. The Recovery Roadmap is meant to address such challenges. There is a working group dedicated to the public administration, with a sub-group on local self-government, and the broader vision is that the positive results achieved before the war should be consolidated and continued. In the subsection on local self-government the Roadmap is divided into three stages, over the short term (the rest of 2022), medium term (2023-2025) and long term (2026-2032). It has four major objectives:

- 1) To improve the administrative-territorial setup in order to meet the challenges for local governments and State executive authorities;
- 2) To clarify the distribution of powers among the tiers of local self-government, as well as between the local and State executive authorities;
- 3) To create an efficient and flexible system of training and development of human resources in local governments, thus generating a competitive and attractive environment for the public service;
- 4) To improve the electoral system used in local elections.

10. The Council of Europe welcomes this strategic vision projected a decade ahead and is prepared to support the continuation of the process of decentralisation, in order to achieve increased autonomy and resilience at the local level. The Council of Europe also finds it encouraging that the Recovery Roadmap proposes a differentiation in the way municipalities are analysed and treated, with the intervention calibrated by area and how much it was affected by the war: occupied territories; frontline zone; support zone; and the Western parts of the country.

11. This customisation of treatment reflects the major changes in the demographic and economic structure in Ukraine. Other lines of action are also envisaged, such as in increased use of information technology in the management of communities and regions, which may facilitate the retention of professionals in the civil and local government service or the interaction with persons and companies even when physical contact is problematic.

12. On a more general note, the local self-government issues are cutting across a number of chapters in the draft Roadmap (such as taxation, budget policy, regional development, infrastructure recovery). While these sectoral sections are answering the question '*what should be done?*', the local self-government section is focused on '*how should it be done?*'.

Conclusions and recommendations

13. To follow the logic of the Roadmap, the medium- and long-term reform process should be accompanied by urgent interventions such as those in support of the affected businesses and IDPs, which need to be adapted to the changing needs of local communities and the possible changes in the frontline situation. In the same vein, the continuation of the local public services in all settlements is essential.

14. In the short run:

- a) The existing legislation dealing with compensations and support for IDPs should be revised and made more flexible, accounting for the different situations that appeared in the past four months; there are many limitations in the compensation system which were justified before February 2022, but less so afterwards. People from such communities who were under occupation or in a military blockade in the past months and afterwards liberated/ de-blockaded, although not technically displaced, have, in many cases, experienced a level of destruction of property and sources of income that may put them in situations not much different from that of proper IDPs.
- b) On the other hand, municipalities from non-affected areas but which host IDPs in schools and other facilities should be helped to manage the situation and have the spaces available for the beginning of the school year in September 2022. Stimulating the economic activity in order to create jobs for all these people is also important.
- c) The base of own resources of municipalities, and primarily the local taxation, which was impacted severely by the war, must be protected as much as possible. If economic incentives are created to stimulate businesses in affected areas, including in the form of tax-free zones or general tax cuts, this should not happen at the expense of local budgets because municipalities have less fiscal and monetary instruments than the central government to deal with the negative effects of economic downturns.
- d) Insulating the local revenue base from major shocks represents also a means of protecting the local public servants and their salaries. Municipalities which lost people disproportionately must be compensated for their loss in the form of personal income tax shares and the transfers should be non-earmarked, exactly like the sums foregone.

15. Over the medium and long term:

- e) The exceptional measures must be clearly limited in time and do not create a “culture of subordination” between the locally elected authorities and the territorial representatives of the state, be they military or civilian. The current military administration should not function as a blueprint for the future “prefectural function”, i.e. the legal supervision of the state over local authorities activities, irrespective of how the institution will be named.
- f) The separation of powers and responsibilities between elected local authorities and state administration must be envisaged and clearly embodied in the new legislation and norms;

this is true both at the municipal and oblast levels. Constitutional amendments are not possible under the martial law, but this does not prevent discussions and negotiations from being conducted to ensure that the changes aim in the right direction and are formalised expeditiously when the situation reverts back to normal. For instance, the regulatory power of central authorities to set tariffs for local services must be reviewed.

- g) The upper hand that the mayors have gained over councils may be justified under the martial law, but must not become a permanent feature of the local government system without a clear legal basis. It would be useful to better define in the Roadmap what “reducing the political component” at all governance levels would mean in practical terms, in order to avoid backtracking on the principles enshrined in the Charter.
- h) There is a notable trend towards re-centralisation (more powers were transferred from local authorities to military state administration), which is understandable in crisis circumstances, but this is creating risks for the reform achievements. According to the people interviewed, in a number of cases the resilience of local authorities was higher and their actions more efficient than those of the military state administration. This was obvious in the metropolitan areas (such as Kyiv City), where the war made more visible the mutual dependence of the neighbouring communities in terms of both military defence arrangements and recovery activities.
- i) Communities around the larger cities will find it difficult to recover economically without the help of their urban neighbours. This creates the conditions for a more rapid coagulation of metropolitan zones (“agglomerations”) and a necessary redefinition of the role of *rayons* and *oblasts*. Practitioners interviewed have signalled that the current metropolitan zones have been useful in wartime conditions, as they facilitated *ad hoc* co-operation among communities, but they suffer from fragmentation of powers (especially between Kyiv City and Kyiv *oblast*) and disintegrated urban planning of the neighbouring municipalities.
- j) Financial transfers may be used as an incentive to advance mergers or tighter forms of inter-municipal co-operation, around a large city or in the rest of the territory. Strategic planning, including urban planning of the metropolitan areas is essential for the success of the recovery.
- k) In terms of the regional development policy, many European countries have carried out experiments in regional administration in the past two-three decades, sometimes across the board, sometimes on a pilot basis. Looking at the numerous European examples one may conclude that even when an overarching culture of decentralisation is present, there are options to be made: countries may decentralise more either at local or regional level, but not necessarily on both tiers simultaneously. A good, clear and contractual vertical division of responsibilities between new *hromadas* and elected authorities of *oblasts* is necessary; the latter represent the nuclei of Ukraine’s EU-style NUTS II regions.
- l) In areas designated for post-war reconstruction, the speed of action must be reconciled with the need to ensure a minimum of smart urban planning, with eco-friendly and participatory planning and budgeting components. A forward-looking policy encouraging

buildings' insulation, low energy consumption and a move away from fossil fuels should be adopted, even if its implementation will be phased in over many years, depending on the resources available. This has the advantage to dovetail with the EU's strategies and therefore make the programmes easier to support financially by the Union.

- m) The human resource problem in local self-governments is important, under all its aspects identified in the draft Roadmap: recruitment, payment, motivation, professional prestige, ethical standards. However, the local self-government service reform should be a component of the broader national level efforts to establish a public service, as a part of the Public Administration reform, because many challenges and potential solutions are similar to those in the central institutions. At least the selection, promotion and the salary system are usually specified through common national norms, although the precise requirements and coefficients may differ, while the rules against conflicts of interests and incompatibilities are part of the same set of laws and verification mechanisms.
- n) For ensuring representation in local councils via free and fair elections it is important to consider not only the electoral system in place, to be used as such after martial law is lifted and the respective legal pre-conditions are met. A broader assessment is necessary of the electoral legal and practical framework, by engaging all the relevant stakeholders concerned, including the Central Election Commission, in order to define legal and practical pre-requisites for the organisation of elections in the post-war context. This might include, but not be limited to:
- legal grounds and prerequisites for calling elections,
 - issues related to the update and record keeping of information about voters,
 - the exercise of active and passive suffrage,
 - the possibility to ensure level playing field and due election management process in safe and secure environment.

This assessment will help to define priority steps to be taken by the national authorities in order to ensure that future elections are held in line with European electoral standards and good practices, including as laid down in the Code of good practice⁶ in electoral matters and other Council of Europe standard-setting documents, as well as recommendations made by international election observers (PACE, Congress of local and regional authorities, OSCE/ODIHR) upon the results of election observation in Ukraine in recent years.

- o) Civil participation, gender equality and inclusion of people in vulnerable situation should be mainstreamed through the implementation of the Recovery Roadmap. The strategic international documents – namely, the Council of Europe's Gender Equality Strategy for 2018-2023, European Union's Gender Equality Strategy for 2020-2025 and goal 5 of the United Nations Sustainable Development Goals – should be followed as a guideline for integrating gender perspective in the law-making and recovery processes. In addition, the

⁶ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)003-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)003-e)

brief by the Government Commissioner for Gender Equality Policy, which provides information on advantages and methodology of gender mainstreaming and women's participation in the development and implementation of recovery programmes, should be consulted.

- p) Finally, all legislative interventions included in the Recovery Roadmap are important, but so is the policy work behind them and the administrative mechanisms to transpose them into practice. Enough resources and capacity must be devoted to the implementation of whatever structural changes are decided. Moreover, engagement of the advisory expert team on local self-government in the final editing of the Roadmap draft will be beneficial for the coherence of the proposed actions.

Appendices

1. List of participants in the online consultations carried out.
2. Questions for discussion during the consultations carried out.

List of participants in the online consultations carried out

1. Anatoliy FEDORUK, Bucha City mayor, Kyiv oblast.
2. Anatoliy TKACHUK, national expert.
3. Andriy DRANCHUK, Khotyn City mayor, Chernivtsi oblast.
4. Andriy LITVYNOV, adviser to Irpin City mayor, Kyiv oblast.
5. Hennadiy DYKYI, Bila Tserkva City mayor, Kyiv oblast.
6. Inna SKLIAR, executive director of the local government association “Kyiv agglomeration”.
7. Liubomyr ZUBACH, Deputy mayor of Lviv City.
8. Myroslav KOSHELIUK, national expert.
9. Oksana PRODAN, adviser on municipal policy of Vitaliy KLYCHKO, President of the Association of Ukrainian Cities, President of the local government association “Kyiv agglomeration”.
10. Oleksandr ATROSHCHENKO, Chernihiv City mayor, Chernihiv oblast.
11. Oleksandr HONCHARENKO, Kramatorsk City mayor, Donetsk oblast.
12. Oleksandr SENKEVYCH, Mykolaiv City mayor, Mykolaiv oblast.
13. Oleksandr SLOBOZHAN, executive director of the Association of Ukrainian Cities.
14. Olena BOIKO, national expert.
15. Roman KIZYMA, deputy Director of the Directorate on Agglomeration, Lviv City Council.
16. Serhiy SHARSHOV, General Director of the Directorate on Local Self-Government and Territorial Organisation of Power, Ministry for Communities and Territories Development of Ukraine.
17. Valentyna POLTAVETS, executive director of the Association of Amalgamated Territorial Communities.
18. Viacheslav NEHODA, Deputy Minister for Communities and Territories Development of Ukraine.
19. Vira KOZINA, national expert.
20. Vitaliy BEZHIN, Member of the Parliament of Ukraine, Chairperson of the Parliamentary Subcommittee on administrative and territorial structure and local self-government, Parliamentary Committee on State Building, Local Governance, Regional and Urban Development.
21. Yuriy HANUSHCHAK, national expert.
22. Yuriy LUKASHEVSKYI, Director of the Directorate on Agglomeration, Lviv City Council.

Questions for discussion during the consultations carried out

1. What are the key problems in terms of attributions of LSGs now, during martial law? Which problems were relevant before the war?
2. How ready for the challenges of war were the enlarged territorial communities (the new administrative-territorial system)? What can be done rapidly to strengthen the capacity of the LSG to resist?
3. Some decision-makers at the central level speak of a certain “inconsistency” in the current system of local government under wartime conditions – and in crisis situations in general (conflicts of competence between authorities, failure to perform certain functions, inefficiency in the exercise of powers). Do you think this is correct?
4. Oblasts and Rayons: what would you have changed at these levels in order for LSGs to function better, even before the war? What role did district and regional state / military administrations play in solving wartime problems? How much did they help LSG?
5. Are there problems in separation of competencies between the state and LSG? How can they be solved? A few examples, if such problems exist.
6. What tasks in the field of local self-government should be identified as a priority in the Recovery Plan of Ukraine (in terms of importance for post-war reconstruction)? Please focus on important, strategic changes, if any.
7. How to ensure the principle of “build back better” in the process of rebuilding communities? How to ensure rapid changes in urban planning documentation (spatial planning)? How can the conflicting objectives of rebuilding fast, on the one hand, and avoiding unregulated, low-quality rebuilding on the other hand (both in terms of objects built, and the general urban environment), be balanced / reconciled?
8. What role do you see for LSGs, and in particular for cities and larger towns, in the large effort under the Plan of restoration of Ukraine from the effects of war? Does this require additional powers?
9. How do you assess the state of LSG staffing? How did the professional level of LSG reveal during the war? What are the chances of returning LSG employees who left the community?
10. Is there a need to change the electoral law in local elections? What changes are needed?
11. How much did the local revenues dropped in 2022 in communities which are not occupied or in the direct proximity of the current frontline? What are the perspectives for the rest of 2022?
12. How much of a financial burden for LSGs are the internally displaced persons (IDPs)? What would you change in the way they are supported today? Did IDPs integrate into a host community life? Are they involved in local affairs (such as volunteering or other)?